

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No.: CV 23-02360 JAK (RAOx) Date: March 10, 2025
Title: Suzette Kelly v. Fashion Nova, LLC

Present: The Honorable **ROZELLA A. OLIVER, U.S. MAGISTRATE JUDGE**

Eddie Ramirez
Deputy Clerk

Tape No.: N/A
Court Reporter/Recorder: N/A

Attorneys Present for Plaintiff(s):
N/A

Attorneys Present for Defendant(s):
N/A

Proceedings: (In Chambers) **MINUTE ORDER MODIFYING MAY 1, 2024 ORDER [185]; DENYING AS MOOT MOTION FOR CONTEMPT [206]; AND DENYING AS MOOT APPLICATION FOR LEAVE TO FILE PLAINTIFFS’ REPLY [300]**

On December 6, 2024, Defendant Fashion Nova, LLC (“Fashion Nova”) filed a Motion for Contempt, and to Dismiss under Fed. R. Civ. P. 41(b), and to Dismiss Due to Unclean Hands (“Motion for Contempt”). Dkt. No. 206. On December 9, 2024, District Judge Kronstadt referred the Motion to the undersigned magistrate judge for the preparation of a Report and Recommendation. Dkt. No. 208.

The Court held a hearing on January 27, 2025, and permitted Plaintiffs Suzette A. Kelly (“Kelly”) and Sarahi Fashion House, Inc. (“Sarahi”) (collectively, “Plaintiffs”) to submit a supplemental filing and Defendant to file a response. Dkt. No. 219. The parties have since submitted their supplemental filings and additional filings.¹ See Dkt. Nos. 267-271, 273, 274, 292-296, 298, 300-304.

At the January 27, 2025 hearing, the Court indicated that on the record before it, Plaintiffs had not met their burden to show inability to comply with the Court’s May 1, 2024 order to pay \$87,552.16 in Defendant’s fees and costs.

¹ The Court issues its rulings based on the original briefing for the Motion for Contempt and the supplemental filings permitted by the January 27, 2025 order. Because the Court has not considered the additional filings by Plaintiffs, the Court declines to rule on Defendant’s Objection, see Dkt. No. 298, and denies as moot Plaintiffs’ Application for Leave to File Plaintiffs’ Reply to Defendant’s Supplemental Memorandum, see Dkt. No. 300.

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The Court has reviewed Plaintiffs' supplemental filing and finds that Plaintiffs' assertion that they were unable to pay the total amount of the sanctions by the Court's prior deadline has been adequately supported.² Additionally, Ms. Kelly indicates that pursuant to her proposal for a payment plan, she has now sent a check in the amount of \$4,000.00 to defense counsel and intends to continue making good faith payments. Kelly Decl. ¶¶ 16, 17, Dkt. No. 270. Had the Court been presented this information when it issued its May 1, 2024 sanctions order, the Court would have likely accepted the proposed payment plan. Granting Defendant the relief requested in its Motion for Contempt would essentially grant the terminating sanctions the Court has already denied with respect to the spoliation motion. The Court therefore finds it appropriate to modify its May 1, 2024 order and orders Plaintiffs to pay Defendant the monetary sanctions in installments. Plaintiffs shall make a good faith effort to pay what they can afford on a monthly basis, with the \$2,000 monthly payments set forth in their November 22, 2024 email as a benchmark. *See* Dkt. No. 207-10. The Court will not set an exact monthly payment at this time as the Court does not believe further contempt motions on this basis would be an efficient use of the parties' or the Court's resources. The Court is amenable to revisiting the payment plan at an appropriate time, for example, at the conclusion of this case.

Because Defendant's Motion for Contempt and request for dismissal is primarily based on Plaintiff's failure to pay the sanctions, the Court considers its modification of the sanctions order to moot the Motion for Contempt.

IT IS SO ORDERED.

Initials of Preparer _____ : _____
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² As to the payment to counsel, the Court does not find it improper for Plaintiffs to pay her attorneys for their work. The sanctions order was against Plaintiffs themselves and not their attorneys.